



## INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

*Mitchell E. Daniels Jr.*  
Governor

*Thomas W. Easterly*  
Commissioner

100 North Senate Avenue  
Indianapolis, Indiana 46204  
(317) 232-8603  
Toll Free (800) 451-6027  
[www.idem.IN.gov](http://www.idem.IN.gov)

June 15, 2012

Ms. Tinka Hyde  
Director, Water Division  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

**JUN 18 2012**

Dear Ms. Hyde:

Re: Section 308 Letter – Peabody Midwest Mining,  
LLC – Bear Run Mine

The Indiana Department of Environmental Management (IDEM) was copied on your March 22, 2012, request to Peabody Midwest Mining, LLC for information pursuant to Section 308 of the Clean Water Act. IDEM believes that the extent of the information requested is over-reaching. While Section 308 of the Clean Water Act provides U.S. EPA broad authority to request information to determine compliance, it is tempered with the qualifier that the request be reasonable.

Peabody Midwest Mining, LLC is currently authorized to discharge storm water at the Bear Run Mine under IDEM's general permit as defined by rule at 327 IAC 15-7. This general permit outlines required monitoring for specific effluent limitations, based on existing Federal effluent guidelines, for TSS, pH, total iron and, in some cases, manganese, to demonstrate compliance. While U.S. EPA may believe that the effluent limitations and associated monitoring required by the general permit are insufficient, IDEM believes that the requested additional sampling, particularly for a storm water discharge, is impractical, inefficient and unreasonable, for several reasons:

First, requesting extensive biological community monitoring for fish, macroinvertebrates, and physical habitat, including a Quality Habitat Evaluation Index does not appear useful in determining compliance. Given the long history of previous mining activities in this geographic area, it seems that collecting this information would not provide useful 'baseline' information and would not help draw conclusions about NPDES permit compliance.

Second, this request for biological monitoring seems better suited to help determine whether nearby streams are impaired, not determine whether or not the facility is in compliance with its permit requirements. If the purpose of this request is to determine whether nearby streams are impaired, the IDEM believes the proper framework for making those determinations is through the compilation of the 303(d) list of impaired waters. IDEM submitted this list of impaired waters in 2010 and 2012 and any disagreements U. S. EPA has with IDEM over listing impairments for Indiana streams should be worked out directly with IDEM through the 303(d)/305(b) approval process, not through a 308 request to a third party.

Third, the 308 request requiring monitoring of a very wide range of cations, anions, metals, and other parameters is unclear and may be an inefficient way to gather information. For example, while the request for mercury monitoring details collection techniques, it does not specify whether methyl mercury or total mercury must be reported.

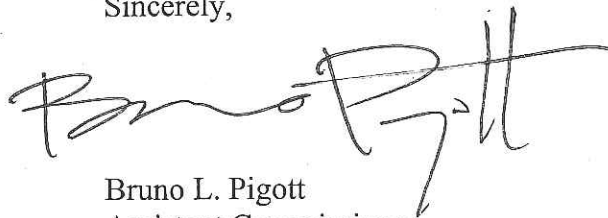
Fourth, it is IDEM's understanding that NPDES permit holders often collect relevant data for a variety of operational reasons. This additional data does not need to be submitted to IDEM or EPA, however, if requested, the historical data Peabody Midwest Mining, LLC has on file could be sent for your review. An alternative to requiring additional monitoring would be to determine whether there is any existing information that can be made readily available to U.S. EPA.

Fifth, neither IDEM nor U.S. EPA requires this level of additional sampling for an NPDES discharge. Sampling should be used to determine compliance with permit requirements. This sampling request does not seem to be related to compliance as Bear Run Mine has been in compliance with the terms of its general permit.

Finally, as you are aware, coal mines, including the Bear Run Mine, are not only regulated under the NPDES program, but also under the Surface Mining Control and Reclamation Act (SMCRA). SMCRA and its associated regulations contain a wide variety of reporting requirements. The Indiana Department of Natural Resources (IDNR), which administers the SMCRA program in Indiana, receives this information and has shared it with U.S. EPA. As a result of the availability of the SMCRA and NPDES general permit data, and the potential of accessing additional data collected by Peabody Midwest Mining, LLC, IDEM believes U.S. EPA already has sufficient information about the Bear Run facility.

IDEM believes that this Section 308 information request is impractical, inefficient, and unreasonable and therefore requests U.S. EPA consider amending the request. If you would like to discuss our position on this matter, please contact my assistant, Dee Marquam at 317-234-3309 to arrange a time for a conference call.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bruno L. Pigott', with a stylized flourish at the end.

Bruno L. Pigott  
Assistant Commissioner  
Office of Water Quality